



**CALIFORNIA STATE  
PUBLIC WORKS BOARD**

EDMUND G. BROWN JR. • GOVERNOR

915 L STREET ■ NINTH FLOOR ■ SACRAMENTO CA ■ 95814-3706 ■ (916) 445-9694

STATE PUBLIC WORKS BOARD  
November 18, 2015

**MINUTES**

**PRESENT:**

Ms. Eraina Ortega, Chief Deputy Director, Department of Finance  
Mr. Malcolm Dougherty, Director, Department of Transportation  
Mr. Esteban Almanza, Chief Deputy Director, Department of General Services

**CALL TO ORDER AND ROLL CALL:**

Ms. Eraina Ortega, Chairperson of the Board called the meeting to order at 2:00 p.m.  
Ms. Karessa Belben, Executive Secretary for the Board, called the roll. A quorum was established.

**MINUTES:**

The first order of business was approval and adoption of the October 21, 2015 and November 6, 2015 minutes. Mr. Lief reported that staff had reviewed and recommended approval and adoption of the minutes.

**A motion was made by Mr. Dougherty and seconded by Mr. Almanza to approve and adopt the minutes. The minutes were approved by a 3-0 vote (Ms. Ortega, Mr. Almanza, and Mr. Dougherty all voting aye).**

**CONSENT ITEMS:**

Mr. Lief informed the Board the Consent Calendar consists of Items 1 through 12.

In summary, the Consent Calendar included the following items:

- 1 request to authorize the acceptance of real property through a transfer of title for the Del Norte Superior Court facility in Crescent City. (Consent Item 1)
- 1 request to authorize site selection for a five acre site in Tehama County for a new Baker Fire Station for the Department of Forestry and Fire Protection. (Consent Item 2)
- 1 request to authorize acquisition for 1,273 acres in Kern County for the Onyx Ranch Off-Highway Vehicle area for the Department of Parks And Recreation. (Consent Item 3)
- 6 requests to recognize revised project costs for the Department of Corrections and Rehabilitation, Health Care Facility Improvement Projects at California Institute for Men, California Institute for Women, Folsom State Prison, Richard J. Donovan Correctional Facility, California State Prison, Sacramento, and California State Prison, Solano. (Consent Items 4-9)
- 1 request to approve performance criteria and recognize revised project costs for the Board of State and Community Corrections, Adult Local Criminal Justice Facilities Project, Santa Cruz County. (Consent Item 10)
- 2 requests to approve preliminary plans for the Board of State and Community Corrections, Adult Local Criminal Justice Facilities Projects, Shasta County and Solano County. (Consent Items 11 and 12)
- Please note that Consent Item 13 for the Military Department has been pulled from the agenda for further review.

Staff recommended approval of the Consent Calendar consisting of Consent Items 1 through 12.

There were no comments or questions from the Board or the public.

**A motion was made by Mr. Almanza and seconded by Mr. Dougherty to approve Consent Items 1 through 12. The Consent Items were approved by a 3-0 vote (Ms. Ortega, Mr. Dougherty, and Mr. Almanza voting aye).**

**ACTION:**

Ms. Lukenbill presented the Action Items to the Board.

Action Item 1: Ms. Lukenbill informed the Board that Action Item 1 was pulled from the Agenda.

Action Item 2: If approved, the requested action would authorize site selection of eight assessor's parcels in full or in part.

Staff recommended authorizing site selection of these parcels.

There were no comments or questions from the Board or the public.

**A motion was made by Mr. Dougherty and seconded by Mr. Almanza to adopt the staff recommendations. Action Item 2 was approved by a 3-0 vote (Ms. Ortega, Mr. Dougherty, and Mr. Almanza voting aye).**

Action Item 3: If approved, the requested action would approve a Second Amendment to the Easement Acquisition Agreement with Union Pacific Railroad.

Staff recommended approving the action.

There were no comments or questions from the Board or the public.

**A motion was made by Mr. Dougherty and seconded by Mr. Almanza to adopt the staff recommendations. Action Item 2 was approved by a 3-0 vote (Ms. Ortega, Mr. Dougherty, and Mr. Almanza voting aye).**

Action Item 4: If approved, the requested action would adopt 9 Resolutions of Necessity authorizing the use of eminent domain to acquire properties totaling approximately 56 acres in Madera, Fresno, Kings, and Tulare Counties. Harj Chima, acting as Counsel to the Board on eminent domain addressed the issues raised in the letters objections and presented the Resolutions of Necessity.

Staff recommended adopting the 9 Resolutions of Necessity authorizing the use of eminent domain.

Mr. Dougherty asked a question regarding the location of the properties being in the current construction area. Ms. Chima and Ms. Darr confirmed that they are in the construction contracts that have been awarded to date. Mr. Dougherty also asked for confirmation that the proper appraisals had been made for the properties. Ms. Darr informed the Board that they had.

The Board was addressed by Mr. Mark Wasser, on behalf of the Soares property. Mr. Wasser hand delivered a letter to the Board; he made a case that there was no good faith offer made on the Soares property, because it houses a dairy farm, which will be lost by the acquisition of their

property. The appraisal received included only the land that would be acquired and not the business. The Board asked if it is a partial take or a full take. Mr. Wasser confirmed that it is a partial take affecting the residence the dairy farmer's use. He also argued that the Waste Discharge Permit is based on square footage, which directly affects the herd size. The Board asked if there had been a discussion regarding a full take and Mr. Wasser stated that he wasn't aware of one. Mr. Wasser concluded after confirming that the letter he submitted at the meeting would be included in the file.

Ms. Darr addressed the Board stating that the code only requires an offer for the real estate. She stated that businesses are usually valued after the case filing, unless an owner is willing to give their financials prior. Ms. Darr also stated that she checked the parcel diary and the owner received a loss of goodwill letter and goodwill information sheet with the first written offer.

Mr. Dougherty asked Ms. Chima to explain the process. Ms. Chima explained that the government code requires an offer be made for the real property, and that if there is a business on the property, the right of way agent will provide the property owners the information on how to fill out the loss of goodwill claim and what information is needed. If the owner turns in the information, High Speed Rail Authority will hire a business appraiser to appraise the business. If the owner doesn't return the form before a lawsuit gets filed, the business owner will typically claim the business loss in their answer. The State, at that time, will do a discovery to get the information required to appraise the business. A judge will first decide if the business is entitled to a loss of business/goodwill claim, and if they are, a jury will hear them out. The Board confirmed that the goodwill damages and impact to the business can still be negotiated after a resolution is adopted. Ms. Chima confirmed. Ms. Ortega asked for confirmation that the code only requires an offer for the real property. Ms. Chima confirmed that just compensation is only for the real property, not for the business. Business owners are required to affirmatively claim a loss of business before an analysis can be done. The Board asked if High Speed Rail offers to pay the owner for the business. Ms. Chima stated the owner would have to fill out the claim form.

**A motion was made by Mr. Dougherty and seconded by Mr. Almanza to adopt the staff recommendations. Action Item 2 was approved by a 3-0 vote (Ms. Ortega, Mr. Dougherty, and Mr. Almanza voting aye).**

#### **OTHER BUSINESS:**

Staff presented the 2015 Audited Financial Statements prepared by Gilbert and Associates, and recommended that the Board recognize the 2015 State Public Works Board Financial Statements.

#### **REPORTABLES:**

Staff presented the reportables for general board items and for High Speed Rail Authority.

#### **NEXT MEETING:**

Ms. Ortega stated the next Board meeting is scheduled for Friday, December 11 at 10:00 a.m. in Room 113 at the State Capitol.

Ms. Ortega asked if there were any comments or questions from the Board or the public. There were none.

The meeting was adjourned at 2:26 p.m.